

James F. Basile (SBN 228965)
james.basile@kirkland.com
Elizabeth L. Deeley (SBN 230798)
elizabeth.deeley@kirkland.com
Adam L. Gray (SBN 262557)
adam.gray@kirkland.com
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, California 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

Attorneys for Defendant
FACEBOOK, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SAMBREEL HOLDINGS LLC; YONTOO LLC;
and THEME YOUR WORLD LLC,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

CASE NO. 12-CV-00668-CAB-KSC

DECLARATION OF JAMES F. BASILE
RE: JOINT MOTION FOR
DETERMINATION OF EXPEDITED
DISCOVERY DISPUTE

Judge: Magistrate Karen S. Crawford

I, James F. Basile, declare:

1. I am an attorney licensed to practice law in the State of California and before this Court, and I am a partner with the law firm of Kirkland & Ellis LLP, attorneys of record for defendant Facebook, Inc. in the above-captioned matter. I am also lead trial counsel for Facebook, Inc. I have personal knowledge of the following facts and if called to testify as a witness would testify as follows:

2. The parties have complied with this Court's meet and confer requirements provided in the Court's Chamber Rules by engaging in telephonic meet and confer sessions on four separate days, sometimes over multiple sessions.

3. On April 12, 2012, my partner Elizabeth Deeley and I conferred telephonically for approximately one hour with Mr. Klinck, counsel for Plaintiffs, in a good faith effort to resolve the

1 parties' discovery disputes without requiring the Court's involvement. During this call the parties
2 discussed Facebook's narrowed set of revised discovery requests.

3 4. Later on Thursday, April 12, I sent Mr. Klinck an initial written list of the types of
4 documents we sought. A true and correct copy of the email and attached list of discovery sought is
5 attached hereto as Exhibit A.

6 5. On April 16, 2012, my partner Elizabeth Deeley and I conferred telephonically with
7 Mr. Klinck again for approximately 30 minutes in a renewed effort to reach resolution on remaining
8 discovery items. During that call Mr. Klinck agreed to provide written responses reflecting his
9 clients' position on the initial list of discovery we sought. A true and correct copy of Mr. Klinck's
10 email and his attached responses is attached hereto as Exhibit B.

11 6. I am informed that my partner Elizabeth Deeley conferred with Mr. Klinck for a third
12 time on April 17, 2012 for approximately 30 minutes to discuss the parties' positions on the
13 remaining discovery items.

14 7. On Friday, April 20, 2012, my partner Elizabeth Deeley and I engaged in follow-up
15 telephonic meet and confer sessions with Mr. Klinck and his partner Mr. Kotchen. As a result of
16 these conversations, Facebook revised its Request for Production No. 12 and Sambreel provided a
17 revised response to that request which is reflected in Appendix A to the Joint Motion.

18 8. Attached hereto as Exhibit C is a true and correct copy of Facebook's revised
19 discovery requests to Sambreel. Facebook has included placeholder dates in its deposition notices
20 but will cooperate with Sambreel to schedule a mutually convenient time and location to conduct
21 Mr. Trouw's and Mr. Miller's depositions.

22 9. Attached hereto as Exhibit D is a true and correct copy of the September 2, 2011
23 article "The Continued 'MySpacing' of Facebook: Banner Ads, Layouts and Sneaky Plugin Installs"
24 written by Mike Holder and accessible at [http://mikeholder.com/blog/the-continued-myspacing-of-](http://mikeholder.com/blog/the-continued-myspacing-of-facebook-banner-ads-layouts-and-sneaky-plugin-installs)
25 [facebook-banner-ads-layouts-and-sneaky-plugin-installs](http://mikeholder.com/blog/the-continued-myspacing-of-facebook-banner-ads-layouts-and-sneaky-plugin-installs) as of April 20, 2012.

26 10. Attached hereto as Exhibit E is a true and correct copy of the September 8, 2011
27 article "How to Remove In-Feed Facebook Ads Caused by Crapware [UPDATED]" written by
28 Whitson Gordon and accessible at <http://lifehacker.com/5838550/how-to-hide-facebooks-new->

1 in+feed-ads as of April 20, 2012.

2 I declare under the penalty of perjury that the foregoing is true and correct to the best of my
3 knowledge.

4 Executed this 20th day of April 2012, at San Francisco, California.

5
6 s/ James F. Basile

James F. Basile
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SAMBREEL HOLDINGS LLC et al v. FACEBOOK, INC
United States District Court for the Southern District of California
Case No. 12-cv-00668-CAB-KSC

Index to Exhibits to the April 20, 2012 Declaration of James F. Basile

Exhibit	Description	Page
A.	Email correspondence and attachment from April 12, 2012	1
B.	Email correspondence and attachment from April 17, 2012	6
C.	Facebook's proposed revised discovery	15
D.	Article: "The Continued 'MySpacing' of Facebook: Banner Ads, Layouts and Sneaky Plugin Installs"	27
E.	Article: "How to Remove In-Feed Facebook Ads Caused by Crapware [UPDATED]"	33

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2012, I electronically filed the foregoing ***DECLARATION OF JAMES F. BASILE RE: JOINT MOTION FOR DETERMINATION OF EXPEDITED DISCOVERY DISPUTE*** with the Clerk of the court using the CM/ECF system which will send notification of such filing to the e-mail addresses registered, as denoted on the Court's Electronic Mail Notice List and by overnight mail delivery to the following:

Daniel Kotchen
KOTCHEN & LOW LLP
2300 M Street NW, Suite 800
Washington, DC 20037

DATED: April 20, 2012

By: s/ James F. Basile
James F. Basile